

## STATEMENT OF PURPOSE

RS29378 / S1324

In 2002, a court held that Section 18-1508A(1)(d) criminalizes expressive conduct protected under the First Amendment and is therefore unenforceable. See *State v. Bonner*, 138 Idaho 254 (Ct.App.2002). Because of the court's holding, prosecutors do not bring charges under (d). Identical language is found in Section 18-1506(1)(c). Though it has not been litigated, because of the court's holding in the above-mentioned case with identical language, prosecutors also do not bring charges under (c). This bill simply removes those inoperable provisions. Even with their removal, Idaho law still criminalizes such offensive conduct with Sections 18-1507 (Possession of Sexually Exploitative Material) and 18-6609 (Video Voyeurism). These two offenses are constitutionally enforceable.

## FISCAL NOTE

Because criminal prosecutions cannot be sustained under the provisions this bill repeals, this bill has no fiscal impact to state or local government.

### Contact:

Eric Fredericksen, ICJC, Chair  
(208) 334-2712

Ashley Dowell, ICJC Sex Offense Subcommittee, Chair  
(208) 334-2520

**DISCLAIMER:** This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).